

ENTERED

May 31, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

EDWINA HILL,	§	CIVIL ACTION No
Plaintiff,	§	4:22-cv-03131
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
DENIS R.	§	
MCDONOUGH,	§	
SECRETARY,	§	
DEPARTMENT OF	§	
VETERANS AFFAIRS,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Edwina Hill, an employee of the VA Medical Center in Houston, brought this action *pro se* alleging that she was subjected to discrimination in violation of Title VII. Dkt 1 at 1–2. Defendant Secretary Denis R. McDonough filed a partial motion to dismiss under Rules 12(b)(1) and 12(b)(6), arguing that Hill hasn’t exhausted administrative remedies as to certain claims. Dkt 18.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan dated April 30, 2023. Dkt 30. She recommends that the motion to dismiss be denied because (i) the exhaustion requirement for Title VII claims isn’t jurisdictional, and (ii) it can’t be concluded, based on the limited record at the motion to dismiss stage, that Hill had failed to exhaust administrative remedies. Id at 5–7.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically

objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

None of the parties filed objections. No clear error appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.


The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 28.

The motion by Defendant Secretary Denis R. McDonough to partially dismiss this action is DENIED. Dkt 18.

The pending motion by Plaintiff Edwina Hill for extension of time to respond to the motion to dismiss is DENIED AS MOOT, as is the motion by Defendant to strike untimely responses. Dkts 27 & 29.

SO ORDERED.

Signed on May 31, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge